

[Assembly Bill 2890](#) (Ting)

Date: April 12, 2018 (Amended)

Program: Property Taxes

Sponsor: Author

Government Code Sections 65852.2 and 65852.22

Effective: January 1, 2019

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This analysis is limited in scope to its property tax assessment related provisions.

Summary: Provides that an accessory dwelling unit on a single-family lot or a junior accessory dwelling unit must be valued exclusively on the basis of the building permit value of the accessory dwelling unit ministerial permit and will not trigger a reassessment of the underlying land or other structures on the property.

Fiscal Impact Summary: Unknown.

Existing Law: California's system of property taxation values property at its 1975 fair market value, with annual increases limited to the inflation rate, as measured by the California Consumer Price Index, or 2 percent, whichever is less, until the property changes ownership or is newly constructed. At the time of the ownership change or completion of new construction, the value of the property, for property tax purposes, is reassessed based on current market value (called the "base year value").¹ Thereafter, the base year value is subject to annual increases for inflation. This value is referred to as the "factored base year value."²

New Construction. When additions or substantial alternations occur, the law requires the assessor to increase the property's assessment to reflect the value of "newly constructed" property.³ The assessor assigns the assessable new construction with its own distinct base year value. The remainder of the property's assessment is unaffected and retains its base year value.⁴

Proposed Law: This bill provides that an accessory dwelling unit on a single-family lot or a junior accessory dwelling unit must be valued exclusively on the basis of the building permit value of the accessory dwelling unit ministerial permit. The bill also provides that the underlying land or other structures on the property will not be reassessed when an accessory dwelling unit or junior accessory dwelling unit is assessed as new construction.

In General: California's Property Tax System. Voters changed California's property tax system through Proposition 13, which replaced a current market value-based system with an acquisition value-based system. Under Proposition 13, real property assessed values were set at 1975 market value levels and future assessed value increases were limited to the inflation rate, not to exceed 2 percent, for as long as the property's ownership remains unchanged and the property is not substantively improved (i.e., new construction). The 2 percent maximum inflation adjustment ensures modest assessed value increases, assuming no ownership changes or substantive property improvements.

¹ Revenue and Taxation Code (RTC) sections [110](#) and [110.1](#).

² Article XIII A, section [2](#), of the California Constitution (Proposition 13).

³ RTC section [70](#).

⁴ RTC section [71](#).

New Construction. The California Constitution does not define the terms "new construction" or "newly constructed." RTC section 70 defines these terms to mean:

- Any addition to real property, whether land or improvements (including fixtures), since the last lien date.
- Any alteration of land or any improvements (including fixtures) since the last lien date that constitutes a "major rehabilitation" or that converts the property to a different use.

RTC section 71 requires an assessor to determine a new base year value for the portion of real property that has been newly constructed and provides that the base year value of the remainder of the property assessed, which did not undergo new construction, does not change.

Background: Existing law authorizes a local agency to provide by ordinance for the creation of accessory dwelling units in single-family and multifamily residential zones and requires the accessory dwelling unit comply with certain conditions.⁵ An "accessory dwelling unit" is defined as an attached or a detached residential dwelling unit that provides complete independent living facilities for one or more persons and includes permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as a single-family dwelling is situated.⁶ An accessory dwelling unit also includes an efficiency unit⁷ and a manufactured home.⁸ A "junior accessory dwelling unit" is defined as a unit that is no more than 500 square feet in size and contained entirely within an existing single-family structure. A junior accessory dwelling unit may include separate sanitation facilities, or may share sanitation facilities with the existing structure.⁹

Commentary:

1. **Summary of Amendments.** Related to property taxation, the **March 22, 2018** amendments provide that (1) an accessory dwelling unit or a junior accessory dwelling unit on a single-family lot will be valued for property tax purposes based exclusively on the value of the ministerial permit (GC section 65852.2(a)(7)), and (2) neither will trigger a reassessment of the value of the underlying land or other structures on the property. The **April 16, 2018** amendments separate the valuation provisions of an accessory dwelling unit and a junior accessory dwelling unit into two separate sections (GC sections GC section 65852.2(i) and section 65852.22(h)).
2. **Valuation of New Construction.** When assessable new construction is added to real property, the assessor is required to assess the new construction at fair market value. The requirement in this bill to value new construction exclusively based on the value of the building permit is inconsistent with the California Constitution and the Revenue and Taxation Code requirement to value new construction at its fair market value.
3. **Building Permit Values.** Permit values differ greatly from area to area even within the same county. There is typically no reasonable relationship between permit values and the market value of new construction. The permit value could be significantly higher or lower than the market value of the accessory dwelling unit or junior accessory dwelling unit.

⁵ Government Code (GC) sections [65852.150](#), [65852.2](#), and [65852.22](#).

⁶ GC section 65852.2(h)(4).

⁷ Health & Safety Code section [17958.1](#).

⁸ Health & Safety Code section [18007](#).

⁹ GC section 65852.22(g)(1).

This staff analysis is provided to address various administrative, cost, revenue and policy issues; it is not to be construed to reflect or suggest the BOE's formal position.

4. **Base Year Value of an Existing Structure and Land.** Existing law specifies that only the newly constructed portion of property is assessed and that the base year value of the remainder of the property, which did not undergo new construction, does not change.¹⁰ Thus, this bill is consistent with these provisions in the Revenue and Taxation Code. The author may want to reconsider whether it is necessary to restate this in the Government Code.
5. **Related Legislation.** Senate Bill [1469](#) (Skinner) previously required that an accessory dwelling unit or a junior accessory dwelling unit be valued exclusively on the basis of the building permit value of the accessory dwelling unit ministerial permit, but these provisions were deleted in subsequent amendments. That bill provides that the addition of an accessory dwelling unit on a single-family lot or junior accessory dwelling unit to real property will not trigger a reassessment of the underlying land or other structures on the property. Other bills that involve accessory dwelling units, but are not related to property taxes, include Assembly Bill [2939](#) (Ting), Assembly Bill [2071](#) (Bloom), Senate Bill [831](#) (Wieckowski), and Senate Bill [1226](#) (Bates).

Costs: The State Board of Equalization would incur some minor absorbable costs in informing local county assessors, the public, and staff of the law changes.

Revenue Impact: The difference between a ministerial building permit value and fair market value is unknown.

¹⁰ RTC section 71.